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10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 JOSHUA SANDOVAL, Individually and on)
15 Behalf of All Others Similarly Situated,)

16 Plaintiff,)

17 vs.)

18 AUTOMATED SYSTEMS AMERICA, INC.,)
19 and DOES 1-10, inclusive,)

20 Defendants.)
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Civil Action No. 11-05665

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

FILED BY FAX

11 JUL 11 AM 10:56
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

FILED

1 Plaintiff JOSHUA SANDOVAL, individually, and on behalf of all others similarly situated
 2 (“Plaintiff”), alleges upon knowledge with respect to himself and upon information and belief based,
 3 in part, on the investigation of counsel, as follows:

4 **I. PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action, individually and on behalf of all others similarly situated,
 6 against Defendants (as defined in ¶ 12, *infra*) alleging violations of 15 U.S.C. § 1693 *et seq.*,
 7 commonly known as the Electronic Fund Transfer Act (the “Act”), and 12 C.F.R. § 205 *et seq.*,
 8 commonly known as Regulation E (“Regulation E”), which contains regulations promulgated by the
 9 Board of Governors of the Federal Reserve System to implement the Act (the Act and Regulation E
 10 shall hereinafter be collectively referred to as the “EFTA”). Plaintiff also asserts claims against
 11 Defendants for violations of the California Unfair Business Practices Act, Business and Professions
 12 Code §§ 17200, *et seq.* (the “UCL”).

13 2. The EFTA establishes the basic rights, liabilities, and responsibilities of consumers
 14 who use electronic fund transfer services and of financial institutions that offer these services. The
 15 primary objective of the EFTA and Regulation E is the protection of consumers engaging in
 16 electronic fund transfers. 12 C.F.R. § 205.1(b). The EFTA requires specific disclosures be given by
 17 operators of any automated teller machine (“ATM”) to users of an ATM, prior to the imposition of a
 18 fee for using an ATM. 15 U.S.C. § 1693b.

19 3. The Congressional findings and declaration of purpose regarding the EFTA provides:

20 (a) Rights and liabilities undefined

21 The Congress finds that the use of electronic systems to transfer funds provides the
 22 potential for substantial benefits to consumers. However, due to unique
 23 characteristics of such systems, the application of existing consumer protection
 legislation is unclear, leaving the rights and liabilities of consumers, financial
 institutions and intermediaries in electronic fund transfers undefined.

24 (b) Purposes

25 It is the purpose of this subchapter to provide a basic framework establishing the
 26 rights, liabilities, and responsibilities of participants in electronic fund transfer
 27 systems. The primary objective of this subchapter, however, is the provision of
 28 individual consumer rights

4. The EFTA specifically requires that an ATM must have a posted notice attached on or at the machine informing consumers of the imposition of an ATM surcharge. 15 U.S.C. § 1693b(d)(3).

5. This case is brought under the EFTA based upon the fact that Defendants have imposed ATM fees on Plaintiff and other consumers without providing any posted notice as required by the EFTA.

6. Plaintiff, on behalf of himself and all others similarly situated, brings this class action against Defendants based on Defendants' violation of the EFTA. Plaintiff seeks, on behalf of himself and the proposed class, statutory damages, costs and attorney's fees, all of which are expressly made available by statute. 15 U.S.C. § 1693m. Plaintiff does not seek actual damages.

II. JURISDICTION

7. This Court has federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 and 15 U.S.C. 1693m(g) because this action arises under the Electronic Fund Transfers Act, 15 U.S.C. § 1693 *et seq.*

8. Venue in this judicial district is proper under 28 U.S.C. § 1391 in that this is the judicial district in which a substantial part of the events or omissions giving rise to the claims occurred.

III. PARTIES

9. Plaintiff is a natural person who resides in San Diego County, California and used a certain ATM owned and operated by Defendants (as defined in ¶ 12, *infra*), which ATM is located at or about Norm's 76 Service, 7979 West Sunset Boulevard, Los Angeles, California 90046 (the "Norm's 76 ATM"), within one year of the filing of this Complaint, and was charged an ATM surcharge fee by Defendants at the Norm's 76 ATM described in this Complaint.

10. Defendant AUTOMATED SYSTEMS AMERICA, INC. ("ASAI") is a Nevada corporation authorized and doing business in California, with its principal place of business located at 2600 Foothill Blvd., Suite 202, Glendale, California 91214. ASAI owns and/or operates the

11. The true names and capacities of defendants sued herein as Does 1 through 10, inclusive, are presently not known to Plaintiff, who therefore sues these defendants by such fictitious

names. Plaintiff will seek to amend this Complaint pursuant to Federal Rule of Civil Procedure 15 and include the Doe defendants' true names and capacities when they are ascertained. Each of the fictitiously named defendants is responsible in some manner for the conduct alleged herein and for the injuries suffered by Plaintiff and the proposed class as a result of defendants' wanton and illegal conduct.

12. ASAI, and Does 1 through 10, inclusive, are collectively hereinafter referred to as "Defendants."

IV. BACKGROUND

A. **Electronic Funds Transfer Act**

13. "Electronic funds transfer" is defined as "any transfer of funds . . . which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes . . . automated teller machine transactions . . ." 15 U.S.C. § 1693a(6); *see also* 12 C.F.R. § 205.3(b).

14. Defendants are an "automated teller machine operator" as that term is defined by 12 C.F.R. § 205.16(a), which states: "Automated teller machine operator means any person that operates an automated teller machine at which a consumer initiates an electronic fund transfer or a balance inquiry and that does not hold the account to or from which the transfer is made, or about which an inquiry is made."

15. 15 U.S.C. § 1693b(d)(3)(A) and (B), and the implementing regulation, 12 C.F.R. § 205.16(b) and (c), require an ATM operator who imposes a fee on a consumer for "host transfer services" (an electronic fund transfer or a balance inquiry) to provide notice to the consumer of the fee before the consumer is committed to the transaction. Specifically, 12 C.F.R. § 205.16(b) states:

General. An automated teller machine operator that imposes a fee on a consumer for initiating an electronic fund transfer or a balance inquiry shall:

(1) Provide notice that a fee will be imposed for providing electronic fund transfer services or a balance inquiry; and

(2) Disclose the amount of the fee.

1 16. 15 U.S.C. § 1693b(d)(3)(B), and its implementing regulation, 12 C.F.R. § 205.16(c),
2 specifies the notice to be provided to consumers. 12 C.F.R. § 205.16(c) states:

3 (c) *Notice requirement.* To meet the requirements of paragraph (b) of
4 this section, an automated teller machine operator must comply with the
following:

5 (1) *On the machine.* Post in a prominent and conspicuous
6 location on or at the automated teller machine a notice that:

7 (i) A fee will be imposed for providing electronic fund
transfer services or for a balance inquiry; or

8 (ii) A fee may be imposed for providing electronic fund
9 transfer services or for a balance inquiry, but the notice in this
10 paragraph (c)(1)(ii) may be substituted for the notice in
paragraph (c)(1)(i) only if there are circumstances under
which a fee will not be imposed for such services; and

11 (2) *Screen or paper notice.* Provide the notice required by
12 paragraphs (b)(1) and (b)(2) of this section either by showing it on the
screen of the automated teller machine or by providing it on paper,
13 before the consumer is committed to paying a fee.

14 17. Pursuant to this regulation, the notice physically attached to the ATM must comply
15 with 12 C.F.R. § 205.16(c), either by stating that a fee will be imposed, or if there are circumstances
16 in which a fee will not be imposed, that a fee may be imposed.

17 18. 15 U.S.C. § 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R. § 205.16(e),
18 provide that no fee may be imposed by an ATM operating in connection with any electronic fund
19 transfer initiated by a consumer for which a notice is required unless the consumer is provided the
20 notices required pursuant to 12 C.F.R. § 205.16(c). Specifically, 15 U.S.C. § 1693b(d)(3)(C) states
21 in relevant part:

22 **(C) Prohibition on fees not properly disclosed and explicitly**
23 **assumed by consumer.** No fee may be imposed by any automated
24 teller machine operator in connection with any electronic fund
transfer initiated by a consumer for which a notice is required under
25 subparagraph (A), unless – (i) the consumer receives such notice in
accordance with subparagraph (B); and (ii) the consumer elects to
26 continue in the manner necessary to effect the transaction after
receiving such notice.

27 Similarly, 12 C.F.R. § 205.16(e) provides that:
28

(e) *Imposition of fee.* An automated teller machine operator may impose a fee on a consumer for initiating an electronic fund transfer or a balance inquiry only if

(1) The consumer is provided the notices required under paragraph (c) of this section, and

(2) The consumer elects to continue the transaction or inquiry after receiving such notices.

19. In connection with 2006 amendments to the EFTA, the Board of Governors of the Federal Reserve published its Final Rule and official staff interpretation which, *inter alia*, explained the EFTA's disclosure requirements as follows:

The final rule clarifies the *two-part disclosure scheme established in Section 904(d)(3)(B) of the EFTA. The first disclosure, on ATM signage posted on or at the ATM, allows consumers to identify quickly ATMs that generally charge a fee for use. This disclosure is not intended to provide a complete disclosure of the fees associated with the particular type of transaction the consumer seeks to conduct.* Until a consumer uses his or her card at an ATM, the ATM operator does not know whether a surcharge will be imposed for that particular consumer. Rather, it is the second, more specific disclosure, made either on the ATM screen or an ATM receipt, that informs the customer before he or she is committed to the transactions whether, in fact, a fee will be imposed for the transaction and the amount of the fee....

71 F.R. 1638, 1656 (emphasis added).

20. Thus, the statute and regulation require that a physical notice must be displayed informing consumers that the ATM imposes a surcharge, and that the ATM screen must definitively state that a fee will be imposed, before that fee is imposed.

21. The EFTA imposes strict liability upon ATM operators that fail to comply with its disclosure requirements. *See Burns v. First American Bank*, 2006 WL 3754820, *6 (N.D. Ill. Dec. 19, 2006). A plaintiff seeking statutory damages under the EFTA need not prove that he or she sustained any actual financial loss, or that he or she relied upon the lack of mandatory disclosure as an inducement to enter into a transaction. *Burns*, 2006 WL 3754820, *6 ("Section 1693b(d)(3) prohibits an ATM operator from charging a fee unless it provides notice of its fee on the machine and on the screen, period, no mention of a necessary scienter.")

22. The notice referenced in 15 U.S.C. § 1693f has no arguable applicability to Plaintiff's claims because, among other things, Plaintiff is not an account holder of Defendants.

B. Defendants' Conduct

23. Defendants are ATM operators regulated under the EFTA, 15 U.S.C. § 1693 *et seq.* and 12 C.F.R. Part 205 (Regulation E), as that term is defined in 12 C.F.R. § 205.16(a).

24. Defendants are operators of the Norm's 76 ATM located at or about 7979 West Sunset Blvd., Los Angeles, California 90046.

25. Defendants are owners of the Norm's 76 ATM located at or about 7979 West Sunset Blvd., Los Angeles, California 90046.

26. The Norm's 76 ATM permits consumers to perform electronic fund transfers, as defined in 12 C.F.R. § 205.3.

27. The Norm's 76 ATM imposes a fee on consumers who withdraw cash from the Norm's 76 ATM.

28. Defendants failed to post on or at the Norm's 76 ATM a notice that a fee will be imposed for withdrawing cash or for a balance inquiry, resulting in Defendants' improper imposition of a fee to Plaintiff and other users of the Norm's 76 ATM.

29. Defendants' failure to post the required notice on or at the Norm's 76 ATM has resulted in frequent and persistent non-compliance with the EFTA. Said violations of the EFTA have adversely affected hundreds or thousands of consumers.

30. Despite knowing of the ATM fee notice provisions of the EFTA, Defendants have violated the EFTA by failing to post the required ATM fee notice at the Norm's 76 ATM and improperly imposing ATM fees.

31. Defendants' non-compliance with the ATM fee notice requirements of the EFTA, and subsequent imposition of a fee on Plaintiff and the members of the proposed class, did not result from a bona fide error.

C. Plaintiff's Electronic Funds Transfers With Defendants

32. Plaintiff is a consumer as defined in 12 C.F.R. § 205.2(e).

33. Within one year of the filing of this Complaint, Plaintiff used the Norm's 76 ATM described in this Complaint in order to conduct an electronic funds transfer involving the withdrawal of cash.

1 34. The Norm's 76 ATM did not have the fee notice required by 15 U.S.C. § 1693b(d)(3)
2 and 12 C.F.R. § 205.16, as it did not have any sign affixed to it or in close proximity to it informing
3 consumers that use of the Norm's 76 ATM will or may result in an ATM surcharge.

4 35. Plaintiff was in fact assessed a \$2.50 ATM surcharge fee for withdrawing cash from
5 the Norm's 76 ATM described in this Complaint.

6 V. CLASS ALLEGATIONS

7 36. Plaintiff brings this class action on behalf of himself and all other similarly situated
8 persons pursuant to Rule 23(a), (b)(1), (b)(3) of the Federal Rules of Civil Procedure. Plaintiff
9 hereinafter sets forth facts and allegations more specifically in support of his class action allegations.

10 37. With regard to the EFTA claim, Plaintiff seeks to represent a class of similarly
11 situated persons, consisting of (a) all consumers (b) who initiated an electronic funds transfer at the
12 Norm's 76 ATM described in ¶ 9, *supra*, and (c) were assessed a fee for withdrawing cash from the
13 Norm's 76 ATM described in ¶ 9, *supra*, (d) on or after the date one year prior to the filing of this
14 action and continuing through the trial of this cause or until Defendants are compliant with the
15 EFTA by posting the appropriate notice (the "EFTA Class").

16 38. With regard to the UCL claim, Plaintiff seeks to represent a class of similarly situated
17 persons, consisting of (a) all consumers (b) who initiated an electronic funds transfer at the Norm's
18 76 ATM described in ¶ 9, *supra*, and (c) were assessed a fee for withdrawing cash from the Norm's
19 76 ATM described in ¶ 9, *supra*, (d) on or after the date four years prior to the filing of this action
20 and continuing through the trial of this cause or until Defendants are compliant with the EFTA by
21 posting the appropriate notice (the "UCL Class") (both the EFTA Class and the UCL Class are
22 collectively referred to as the "Class").

23 39. Congress expressly intended that the EFTA would be enforced, in part, through
24 private class actions. 15 U.S.C. § 1693m(a).

25 40. Plaintiff is informed and believes, and thereon alleges, that there are at minimum,
26 hundreds of members of the Class.

27 41. The exact size of the Class and the identities of the individual members thereof are
28 ascertainable through Defendants' records. Defendants have exclusive control of this information.

1 42. Members of the Class may be notified of the pendency of this action by techniques
2 and forms commonly used in class actions, such as by published notice, e-mail notice, website
3 notices, first class mail, or combinations thereof, or by other methods suitable to this Class and
4 deemed necessary and/or appropriate by this Court.

5 43. Defendants can generate data for its Norm's 76 ATM identifying each transaction in
6 which a fee was charged. The data will include the date of the transaction, the amount of the fee and
7 the personal account number ("PAN") for the consumer. The PAN includes a bank identification
8 number ("BIN"). This information can be used to identify members of the Class.

9 44. The Class is sufficiently numerous to make bringing all parties before the Court
10 impractical pursuant to Rule 23(a)(1) of the Federal Rules of Civil Procedure.

11 45. Plaintiff's claims are typical of the claims of the members of the Class. The claims of
12 the Plaintiff and members of the Class are based on the same legal theories and arise from the same
13 unlawful conduct. Plaintiff and Class members seek recovery of statutory, not actual, damages.

14 46. Plaintiff and members of the EFTA Class were each users of the Norm's 76 ATM
15 since the date one year prior to the filing of this action.

16 47. Plaintiff and members of the UCL Class were each users of the Norm's 76 ATM
17 since the date four years prior to the filing of this action.

18 48. Plaintiff and each member of the Class were illegally charged an ATM fee as a result
19 of Defendants' failure to comply with the ATM fee notice requirements of the EFTA, thereby
20 resulting in common questions of law and fact pursuant to Rule 23(a)(2) of the Federal Rules of
21 Civil Procedure.

22 49. Plaintiff and each member of the Class received an inadequate notice regarding the
23 imposition of an ATM fee by the Norm's 76 ATM.

24 50. The questions of law and fact common to the Class predominate over questions which
25 may affect individual members, including:

26 (a) Whether Defendants were at all relevant times during the class period automated
27 teller machine operators which imposed a fee on consumers for providing host transfer services to
28 those consumers;

1 (b) Whether Defendants are the operators of the Norm's 76 ATM;

2 (c) Whether Defendants complied, at all times during the class period, with the notice
3 requirements of 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16; and

4 (d) Whether Plaintiff and members of the Class are entitled to statutory damages, costs
5 and attorney's fees for Defendants' acts and conduct.

6 51. Plaintiff can and will adequately and vigorously represent and protect the interests of
7 the members of the Class. Plaintiff has no interests antagonistic to the members of the Class.
8 Plaintiff has retained counsel able, competent and qualified to prosecute this class action litigation as
9 set forth in Rule 23(a)(4) of the Federal Rules of Civil Procedure.

10 52. Plaintiff and Plaintiff's counsel will fairly and adequately protect the interests of the
11 Class.

12 53. In support of Plaintiff's allegations pursuant to Rule 23(b)(3) of the Federal Rules of
13 Civil Procedure, the Plaintiff avers that a class action is superior to other available means for the fair
14 and efficient adjudication of the claims of the Class. While the aggregate damages that may be
15 awarded to the members of the Class are likely to be substantial, the damages suffered by the
16 individual members of the Class are relatively small. As a result, the expense and burden of
17 individual litigation makes it economically infeasible and procedurally impracticable for each
18 member of the Class to individually seek redress for the wrongs done to them. Plaintiff does not
19 know of any other litigation concerning this controversy already commenced by or against any
20 member of the Class. The likelihood of the individual members of the Class prosecuting separate
21 claims is remote. Pursuant to Rule 23(b)(1)(A) of the Federal Rules of Civil Procedure
22 individualized litigation would also present the potential for varying, inconsistent, or contradictory
23 judgments, and would increase the delay and expense to all parties and the court system resulting
24 from multiple trials of the same factual issues. In contrast, the conduct of this matter as a class
25 action presents fewer management difficulties, conserves the resources of the parties and the court
26 system, and would protect the rights of each member of the Class. Plaintiff knows of no difficulty to
27 be encountered in the management of this action that would preclude its maintenance as a class
28 action.

1 **VI. CLAIMS**

2 **FIRST CLAIM FOR RELIEF**

3 **Against All Defendants for**

4 **Violation of 15 U.S.C. § 1693 *et seq.* and 12 C.F.R. 205 *et seq.***

5 54. Plaintiff incorporates by reference and realleges each and every allegation contained
6 above, as though fully set forth herein.

7 55. Plaintiff asserts this claim on behalf of himself and the Class against Defendants.

8 56. Defendants failed to provide notices to the Plaintiff and the Class as required by 15
9 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16(c), and imposed a fee in violation of 15 U.S.C. §
10 1693b(d)(3)(C) and 12 C.F.R. §§ 205.16(b) and (e).

11 57. 15 U.S.C. § 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R. § 205.16(e),
12 prohibit the imposition and receipt of a fee for conducting an electronic fund transfer unless a notice
13 of the fee is posted in a prominent and conspicuous location on or at the ATM.

14 58. Defendants imposed and received a fee in violation of 15 U.S.C. § 1693b(d)(3)(C),
15 and its implementing regulation, 12 C.F.R. § 205.16(e).

16 59. As a result of Defendants' violations of the EFTA, Defendants are liable to Plaintiff
17 and the Class for statutory damages pursuant to 15 U.S.C. § 1693m.

18 60. As a result of Defendants' violations of the EFTA, Plaintiff and the members of the
19 Class are entitled to recover costs of suit and their reasonable attorney's fees.

20 **SECOND CLAIM FOR RELIEF**

21 **Against All Defendants for**

22 **Violation of California Bus. & Prof. Code § 17200**

23 61. Plaintiff incorporates by reference and realleges each and every allegation contained
24 above, as though fully set forth herein.

25 62. The California Unfair Business Practices Act defines unfair competition to include
26 any "unfair," "unlawful," or "fraudulent" business act or practice. Cal. Bus. & Prof. Code § 17200.
27 The UCL provides that a Court may order injunctive relief and restitution to affected members of the
28 general public for violations. *Id.* § 17203.

63. Plaintiff has suffered injury in fact and has lost money as a result of Defendants' unlawful, unfair, and/or fraudulent business acts and practices. If Defendants had complied with EFTA, Plaintiff would not have suffered injury in fact and would not have lost money.

64. This cause of action is brought on behalf of Plaintiff, members of the Class, and members of the general public pursuant to California Business & Professions Code §§ 17200, *et seq.* Under Business & Professions Code §§ 17200, *et seq.* Plaintiff is entitled to enjoin Defendants' wrongful practices and to obtain restitution for the monies paid to Defendants by reason of Defendants' unlawful, unfair, and/or deceptive acts and practices.

65. Defendants' actions were knowingly committed and performed with such frequency as to constitute a general business practice.

66. As a direct and proximate result of Defendants' wrongful acts and practices alleged above, members of the Class and the general public have been wrongfully charged by Defendants. This Court is empowered to, and should, order restitution to all persons from whom Defendants unfairly and/or unlawfully took money.

67. Defendants' unlawful, unfair, and/or fraudulent business acts and practices, as described above, present a continuing threat to members of the Class and of the general public, in that Defendants are continuing, and will continue, unless enjoined, to commit violations of California Business & Professions Code § 17200. This Court is empowered to, and should, grant preliminary and permanent injunctive relief against such acts and practices.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the members of the Class, prays for:

A. An order certifying the Class and appointing Plaintiff as the representative of the Class, and appointing undersigned counsel as Class Counsel;

B. An award to Plaintiff and the members of the Class of statutory damages pursuant to 15 U.S.C. § 1693m;

C. A declaration that Defendants' conduct constitutes a violation of California's Business & Professions Code § 17200;

1 D. An injunction enjoining, preliminarily and permanently, Defendants from continuing
2 the wrongful conduct alleged herein;

3 E. Payment of costs of suit herein incurred pursuant to 15 U.S.C. § 1693m(a)(3);

4 F. Payment of reasonable attorney's fees pursuant to 15 U.S.C. § 1693m(a)(3); and

5 G. For other and further relief as the Court may deem proper.

6 **JURY TRIAL DEMANDED**

7 Plaintiff hereby demands a trial by jury.

8 DATED: July 8, 2011

/s/ Mark A. Golovach

9
10

MARK A. GOLOVACH

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23 *Attorneys for Plaintiff*
24 *JOSHUA SANDOVAL*
25
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27
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Manuel Real and the assigned discovery Magistrate Judge is Ralph Zarefsky.

The case number on all documents filed with the Court should read as follows:

CV11- 5665 R (RZx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

Unless otherwise ordered, the United States District Judge assigned to this case will hear and determine all discovery related motions.

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

PACIFIC COAST LAW GROUP
 Mark A. Golovach (Cal. Bar No. 220760)
 555 West 5th Street, 31st Floor
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 Tel: (310) 684-3966

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Joshua Sandoval, Individually and on Behalf of All
 Others Similarly Situated,

PLAINTIFF(S)

v.

Automated Systems America, Inc., and Does 1-10,
 inclusive,

DEFENDANT(S).

CASE NUMBER

CV11-05665R(PZx)

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

FILED BY FAX

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Mark A. Golovach, whose address is Pacific Coast Law Group, 555 West 5th Street, 31st Floor, Los Angeles, CA 90013. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

JUL 11 2011

Clerk, U.S. District Court

JULIE PRADO SEAL

Dated: _____

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> Joshua Sandoval, Individually and on Behalf of All Others Similarly Situated		DEFENDANTS Automated Systems America, Inc., and Does 1-10, inclusive	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) PACIFIC COAST LAW GROUP, Mark A. Golovach, 555 West 5th Street, 31st Floor, Los Angeles, California 90013, (310) 684-3966		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:50%;">Citizen of This State</td> <td style="width:50%;">PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> </tr> </table>	Citizen of This State	PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3
Citizen of This State	PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1						
Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2						
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3						

IV. ORIGIN (Place an X in one box only.)
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT **JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint)

CLASS ACTION under F.R.C.P. 23: ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite unconstitutional statutes unless diversity.)
 15 U.S.C. section 1693, et seq.; 12 C.R.F. section 205, et seq. Defendants' violation of the Electronic Fund Transfer Act and Regulation E

VII. NATURE OF SUIT (Place an X in one box only.)

<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence/Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition POPELURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOVEREIGNTY <input type="checkbox"/> 861 HIA (1395M) <input type="checkbox"/> 862 Black Lung (923) (405(g)) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number

CV11-05665

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District, California County outside of this District, State if other than California, or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District *	California County outside of this District, State, if other than California, or Foreign Country
	San Diego County

(b) List the County in this District, California County outside of this District, State if other than California, or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District *	California County outside of this District, State, if other than California, or Foreign Country
	Nevada

(c) List the County in this District, California County outside of this District, State if other than California, or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District *	California County outside of this District, State, if other than California, or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Mark A. Holbach Date 7/8/2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))